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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.				
10/800,825	03/15/2004	John A. Klein	P-2344.79	1392				
30553	7590	06/14/2005	<table border="1"> <tr> <td colspan="2">EXAMINER</td> </tr> <tr> <td colspan="2">TORRES, ALICIA M</td> </tr> </table>		EXAMINER		TORRES, ALICIA M	
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GUNN, LEE & HANOR 700 N. ST. MARY'S STREET SUITE 1500 SAN ANTONIO, TX 78205			<table border="1"> <tr> <td>ART UNIT</td> <td>PAPER NUMBER</td> </tr> <tr> <td>3671</td> <td></td> </tr> </table>	ART UNIT	PAPER NUMBER	3671		
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DATE MAILED: 06/14/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/800,825

Applicant(s)

KLEIN ET AL.

Examiner

Alicia M Torres

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 15 March 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 3/15/04.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### *Claim Rejections - 35 USC § 103*

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Zenner 4,930,298 in view of Cody et al. 3,877,206, hereafter Cody.

Zenner discloses a deck for mowers comprising:

- an upper deck (54a, 50, 54b) having a central portion and sloping downward in all directions;
- a lower deck (26, 28, 34) joined to said upper deck (54a, 50, 54b) at the perimeter of said upper deck;
- a frame member (71) positioned between said upper and lower deck in a central position with multiple sections; and
- front (28a) and rear (unnumbered) cross members attached to where the upper and lower decks meet;
- the front cross member (28a) is bounded by said left skirt and said right skirt
- the skirts each comprising a skid shoe (unnumbered)
- a hitch assembly (24) supported by left and right channel members (unnumbered) and said front cross member (28a).

The corners of the decks naturally form an apex and the hitch member, as can be seen in

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Figures 1 and 2, is perpendicular to the cross member.

As per claim 2, Zenner discloses two centrally located J-shaped pieces on the rear cross member in the form of carriers for caster wheels (22). The J-shape can best be seen in Figure 1.

While Zenner fails to disclose wherein the ends of the upper deck are positioned downward in a smooth radius, as per claim 1, it would have been obvious to one having ordinary skill in the art at the time the invention was made to round the edges of the deck in light of the teachings of Cody. Cody teaches that it is desirable to include rounded edges on a mower in order to provide a pleasing appearance and to prevent injuries to an operator that may come from sharp edges.

3. Claims 8 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Zenner in view of Friesen, as cited by Applicant.

4. Regarding claim 8, Zenner discloses a deck for mowers comprising:

- an upper deck (54a, 50, 50b)
- a lower deck (26, 28, 34)
- a front cross member (28a)
- a rear cross member (unnumbered)
- left and right skirts positioned beneath the decks

the upper deck (54a, 50, 50b) comprising

- a horizontal segment with a length parallel to said rear cross member and having a front and rear side

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- a first sloping section sloping downward from the rear side of said horizontal segment to said rear cross member
- a second sloping section sloping downward from the front side of said horizontal segment to said front cross member
- a first sloping end sloping downward from a first end of said horizontal segment to a first left-sided lip
- a second sloping end sloping downward from a second end of said horizontal segment to a second right-side lip
- at least two sloping diagonal sections sloping diagonally to the front lips.

Zenner fails to disclose the sloping diagonal sections sloping diagonally from said horizontal segment to said rear lips.

Freisen discloses a similar mower deck including a set of rear sloping diagonal sections used to connect the upper and lower decks and sloped so as to provide torsional rigidity.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to include the sloping rear sections as taught by Freisen on the deck of Zenner in order provide the deck with supplemental structural rigidity.

5. Regarding claim 9, Zenner discloses a deck for mowers comprising:

- an upper section (54a, 50, 54b)
- a central section (50)
- a lower section (26, 28, 34)
- a front cross member (28a)

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- a rear cross member (unnumbered)
- a first skirt and a second skirt (both unnumbered) positioned to opposing sides and beneath said upper section and said lower section;

wherein said central section comprises:

- a horizontal segment with a length parallel to said rear cross member
- a first sloping end sloping downward from a first end of said horizontal segment to a first lip positioned adjacent said first skid
- a second sloping end sloping downward from a second end of said horizontal segment to a second lip

wherein said upper section comprises:

- a first sloping section sloping downward from said rear side of said horizontal segment to said rear cross member
- a second sloping section sloping downward from said front side of said horizontal segment to said front cross member
- at least two sloping diagonal sections sloping diagonally from said horizontal segment to said front lips.

Zenner fails to disclose at least two sloping diagonal sections sloping diagonally from said horizontal segment to the rear lips.

Freisen discloses a similar mower deck including a set of rear sloping diagonal sections used to connect the upper and lower decks and sloped so as to provide torsional rigidity.

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It would have been obvious to one having ordinary skill in the art at the time the invention was made to include the sloping rear sections as taught by Freisen on the deck of Zenner in order provide the deck with supplemental structural rigidity.

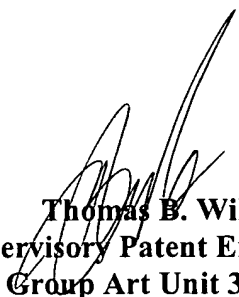
***Conclusion***

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Seifert et al., Oka et al, and Maguire have been cited as of interest.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alicia M. Torres whose telephone number is 571-272-6997. The examiner can normally be reached Monday through Thursday from 7:00 a.m. – 4:30 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas B. Will, can be reached at 571-272-6998.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the group receptionist whose telephone number is 703-305-1113. The fax number for this Group is 703-872-9306.



**Thomas B. Will**  
**Supervisory Patent Examiner**  
**Group Art Unit 3671**

AMT  
June 2, 2005